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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,316	07/08/2003	Kevin L. Parsons	89537	9361

24628 7590 10/26/2004

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EXAMINER

WARD, JOHN A

ART UNIT PAPER NUMBER

2875

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/615,316		PARSONS, KEVIN L.	
	Examiner		Art Unit	
	John A. Ward		2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 48-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padden (US 5,893,631) in view Beinbrech (US 5,893,631) and in view of Parsons et al (US 6,045,237).

Regarding claim 48, Padden discloses a flashlight comprising of a light emitting diode 16, a power source 23 having a first side and second side, a body 34 adapted to receive the light emitting diode and power source (figure 1), a switch 28, and a side cover.

Regarding claims 49 and 50 Padden discloses an opening 32.

Regarding claim 52, Padden discloses that the power source and first and second leads of the light emitting diodes 18, 20 are held within a support structure 36.

Regarding claims 48, 51 and 53-59, Padden does not disclose a medallion, means to attach the medallion, or the type of material of the medallion.

Regarding claim 48, Beinbrech ('570) discloses an illuminated article comprising of a light source 62 that is attached to a medallion 60.

Regarding claims 51 and 53, Beinbrech discloses that the medallion may be adhesively bonded (column 4, lines 4-14).

Regarding claims 54 and 58-59, figure 9 of Beinbrech teaches that the medallion is disposed within an opening defined at least one of the side cover made of a polymer protects the medallion (column 5, lines 63-68 to column 6, lines 1-7).

Regarding claims 55-57 Beinbrech does not disclose the type of materials used to make the medallion.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the medallion of a metal, since it has been held that to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use of a matter of obvious design choice. *In re Leshin*, **125 USPQ 416**.

Regarding claim 48, Beinbrech does not disclose the medallion as being opaque.

Regarding claim 48, Parsons et al discloses a flashlight identification plate having a light source 320, a power source 214 having a first side and second side, a body 202 housing at least part of the light source and power source, a side cover 50 and having a decorative opaque 538 medallion located in the recess of the side cover (column 15, lines 11-24).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the flashlight of Padden with the medallion of Beinbrech and the decorative medallion of Parsons et al in order to provide a decorative article that illuminates in the dark (see abstract of Beinbrech).

Claims 60-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padden (US 5,893,631) in view Beinbrech (US 4,087,570) and in view of Parsons et al ('237).

Regarding claim 60, Padden discloses a flashlight comprising of a light emitting diode 16, a power source 23 having a first side and second side, a body 34 adapted to receive the light emitting diode and power source (figure 1), a switch 28, and a side cover.

Regarding claim 61 Padden discloses an opening 32.

Regarding claims 62-66, Padden does not disclose a medallion, means to attach the medallion, or the type of material of the medallion.

Regarding claims 65 and 66, figure 9 of Beinbrech teaches that the medallion is disposed within an opening defined at least one of the side cover made of a polymer protects the medallion (column 5, lines 63-68 to column 6, lines 1-7).

Regarding claims 62-64 Beinbrech does not disclose the type of materials used to make the medallion.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the medallion of a metal, since it has been held that to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use of a matter of obvious design choice. *In re Leshin*, **125 USPQ 416**.

Regarding claim 60, Beinbrech does not disclose the medallion as being opaque.

Regarding claim 60, Parsons et al discloses a flashlight identification plate having a light source 320, a power source 214 having a first side and second side, a body 202 housing at least part of the light source and power source, a side cover 50 and having a decorative opaque 538 medallion located in the recess of the side cover (column 15, lines 11-24).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the flashlight of Padden with the medallion of Beinbrech and the decorative medallion of Parsons et al in order to provide a decorative article that illuminates in the dark (see abstract of Beinbrech).

Claims 67 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padden (US 5,893,631) in view Beinbrech (US 4,087,570) and in view of Parsons et al (US 6,045,237).

Regarding claim 67, Padden discloses a flashlight comprising of a light emitting diode 16 having a first and second lead 18, 20, a power source having a first side and second side 22, 23, a body 34 adapted to receive the light emitting diode and power source (figure 1), a switch 28, a side cover and an opening 32.

Regarding claims 67 and 68, Padden does not disclose a medallion, means to attach the medallion, or the type of material of the medallion.

Regarding claims 67 and 68, Beinbrech discloses that the medallion may be adhesively bonded (column 4, lines 4-14).

Regarding claim 67, Beinbrech does not disclose the medallion as being opaque.

Regarding claim 67, Parsons et al discloses a flashlight identification plate having a light source 320, a power source 214 having a first side and second side, a body 202 housing at least part of the light source and power source, a side cover 50 and having a decorative opaque 538 medallion located in the recess of the side cover (column 15, lines 11-24).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the flashlight of Padden with the medallion of Beinbrech and the decorative medallion of Parsons et al in order to provide a decorative article that illuminates in the dark (see abstract of Beinbrech).

Claims 69-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padden (US 5,893,631) in view Beinbrech (US 4,087,570) and in view of Parsons et al (US 6,045,237).

Regarding claim 69, Padden ('631) discloses a flashlight comprising of a light emitting diode 16, a power source having a first and second side 22, 23, a switch 28, a body 34, and a side cover 30.

Regarding claim 75, Padden discloses that the light emitting diode 16 further comprises a first and second lead 18, 20 which are held within a structure (figure 6).

Regarding claim 79 and 80 Padden does not discloses that the cover is formed of plastic or polymer.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the side cover made of a polymer, since it has been held

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that to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use of a matter of obvious design choice. *In re Leshin, 125 USPQ 416.*

Regarding claims 69-78, Padden does not disclose a medallion, or the material that it is composed of.

Regarding claims 69, 70 and 74, Beinbrech ('570) discloses a method of making a medallion that may be adhesively bonded (column 4, lines 4-14).

Regarding claims 71-73 and 76-78, Beinbrech does not disclose the size of the medallion, nor does it disclose the material composition of the medallion.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the medallion of metal or the size of the medallion, since it has been held that to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use of a matter of obvious design choice. *In re Leshin, 125 USPQ 416.*

Regarding claim 69, Beinbrech does not disclose the medallion as being opaque.

Regarding claim 69, Parsons et al discloses a flashlight identification plate having a light source 320, a power source 214 having a first side and second side, a body 202 housing at least part of the light source and power source, a side cover 50 and having a decorative opaque 538 medallion located in the recess of the side cover (column 15, lines 11-24).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the flashlight of Padden with the medallion of

Beinbrech and the decorative medallion of Parsons et al in order to provide a decorative article that illuminates in the dark (see abstract of Beinbrech).

Terminal Disclaimer

The terminal disclaimer filed on August 6, 2004 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of 6,190,018 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Ward whose telephone number is 571-272-2386. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAW
October 20, 2004

AU 2875



JOHN ANTHONY WARD
PRIMARY EXAMINER